

**Hall of the House of Representatives**  
83rd General Assembly - Regular Session, 2001  
**Amendment Form**

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**Subtitle of House Bill No. 2501**

"AN ACT TO AMEND THE LAW CONCERNING THE REGISTRATION OF HOME  
INSPECTORS."

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**Amendment No. 1 to House Bill No. 2501.**

Amend House Bill No. 2501 as originally introduced:

Page 7, delete line 35 and substitute the following:  
"that effect, which is signed by the board chairman.

SECTION 4. Arkansas Code 17-52-104 is amended to read as follows:  
17-52-104. Certificates of registration.

~~Certificates shall be consecutively numbered by the Secretary of State. Certificates shall be issued to applicants upon the applicants' compliance with the registration requirements of this chapter. All applications for registration to the office of the Secretary of State shall be reviewed by the Homes Inspector Advisory Board prior to registration. The board shall review the applications no less than once a month and immediately report back to the Secretary of State. No application shall be held without review for more than a thirty day period. Certificates for the initial registration of a home inspector shall be issued for a period commencing on the date of issue and expiring on December 31 of that year. Certificates shall be renewed for a term of one (1) calendar year. Renewal shall be accomplished on or before sixty (60) days prior to the expiration date. The Secretary of State shall issue certificates to applicants upon the applicant's compliance with the registration requirements of this chapter. Records of certificates and any renewals thereof shall be filed in the office of the Secretary of State and be available to the public. All registrants will be assigned a registration number unique to that person, and that number shall never be issued to any other person. When registration is renewed, that person's registration number shall be perpetuated.~~

(a) All applications for registration shall be reviewed and approved by the board prior to registration. No application shall be held without review for more than a thirty (30) day period after receipt by the board. The sponsoring agency shall issue registration certificates to applicants which the board has determined are in compliance with the registration requirements of this chapter. Records of certificates and any renewals thereof shall be filed in the office of the sponsoring agency and be available to the public.

(b) Registration numbers shall be consecutively serialized by the

sponsoring agency and shall be assigned only to persons who have properly applied for registration and have been determined by the board to fully meet the qualifications set forth in this chapter. All registrants will be assigned a registration number unique to that person and that number shall never be issued to any other person. When registration is renewed, that person's registration number shall be perpetuated.

(c) Certificates for the initial registration of a home inspector shall be issued for a period of up to two (2) years, commencing on the date of issue and expiring on a date determined by the board.

(d) Registration renewal shall be for a period of up to two (2) years as may be determined by the board and in accordance with rules and regulations promulgated by the board.

(e) Home inspectors shall carry their certificate of registration at all times and shall present it to a client or prospective client upon request.

SECTION 5. Arkansas Code 17-52-105 is amended to read as follows:  
17-52-105. Fees.

Registration and renewal fees shall be ~~seventy dollars (\$70.00)~~ not less than one hundred dollars (\$100.00) per year. Payments shall be to the ~~Secretary of State~~ sponsoring agency and shall accompany the application to which it applies. Provided, however, the fee may be adjusted by the ~~Secretary of State board~~ as may be necessary to cover the costs and expenses of performing the duties of the Secretary of State board and the sponsoring agency as required by this chapter, it being intended that the registration and renewal fees shall not produce a profit to the State of Arkansas. Prior to any adjustment to the fee, the ~~Secretary of State~~ sponsoring agency shall certify to the Legislative Council of the Legislature that the adjustment is necessary in order to comply with the provisions of this chapter. All moneys received by the ~~Secretary of State~~ sponsoring agency pursuant to this chapter shall be used to administer this chapter.

SECTION 6. Arkansas Code 17-52-106 is amended to read as follows:  
17-52-106. Insurance.

In the event that the insurance coverage required pursuant to this chapter shall cease to be effective, the home inspector shall notify the ~~Secretary of State board~~, and the registration of the affected home inspector shall be suspended until the insurance is reinstated or replaced. The insurance company ceasing to provide coverage for the home inspector shall be requested to notify the ~~Secretary of State board~~ of the policy cancellation.

SECTION 7. Arkansas Code 17-52-107 is amended to read as follows:  
17-52-107. Home Inspector ~~Advisory~~ Registration Board.

~~(a) There is hereby created the Home Inspector Advisory Board to consist of seven (7) members to include the following:~~

~~(1) Four (4) registered home inspectors to come from diverse areas of the state;~~

~~(2) One (1) member from the real estate profession;~~

~~(3) One (1) member who is a licensed real estate appraiser; and~~

~~(4) One (1) member who is a consumer advocate.~~

~~(b) The board shall:~~

~~(1) Decide the subject content and standards which will be~~

~~acceptable to meet the educational standards with regard to home inspection courses as required by law; and~~

~~(2) Develop and put into place procedures for processing and resolution of any and all complaints against and by home inspectors practicing in this state.~~

~~(c) Members shall serve twelve month terms, and each member may serve a maximum of two (2) consecutive terms.~~

~~(d) The board shall choose a chairman for a twelve month term.~~

~~(e) The board shall meet at least two (2) times a year in a location decided by a majority of the board and may meet more often if necessary.~~

~~(f) The board members shall receive no compensation for their services on the board.~~

(a) The Homes Inspector Advisory Board is renamed as the Home Inspector Registration Board and subsequently, the board shall consist of seven (7) members as follows:

(1) Four (4) registered home inspectors;

(2) One (1) member from the real estate profession;

(3) One (1) member who is a licensed real estate appraiser; and

(4) One (1) member who is a consumer advocate.

(b) The purpose of the board shall be to oversee the home inspector registration process, promote a business atmosphere which will protect consumers of home inspection services, and encourage the presence of a viable home inspection industry in Arkansas.

(c)(1) Board members shall be appointed by the Governor as follows:

(A) For purposes of transition, the board shall initially include two (2) registered home inspectors and one (1) other, non-inspector member of the Homes Inspector Advisory Board which existed at the time of the amendment of the chapter and the transition members shall serve one-year terms.

(B) Four (4) new members shall be appointed by the Governor to serve two-year terms.

(C) Thereafter, all board members shall serve two-year terms.

(2) Any vacancy which may occur on the board as a result of member resignation or other reasons, may be filled by the Governor for the balance of the term of the position vacated. For purposes of applying limits on terms of service, any part of a term served shall be considered a full term.

(3) Board members may serve a maximum of two (2) consecutive terms and must remain off the board for at least two (2) calendar years before they can be reappointed.

(d)(1) Annually, the board shall elect by secret ballot, a chairman, vice chairman, and secretary, all to serve for twelve (12) month terms.

(2)(A) The board may employ those persons necessary to perform the functions of the board.

(B) Compensation for those persons will be included in the budget prepared by the sponsoring agency and approved by the board.

(3) The board shall meet at least twice each year in a location decided by the majority of the board and may meet more often if deemed necessary.

(e)(1) The board shall have the authority to approve and direct the registration of home inspectors, and with just cause, revoke, suspend, or

place in probationary status, home inspectors' registrations, and impose and collect monetary fines on home inspectors in accordance with rules which the board develops and adopts in accordance with the Arkansas Administrative Procedure Act.

(2) The board may, as a condition of registration or renewal, require an inspector to submit lists of past clients, inspection reports, and other documents to be reviewed to establish compliance with this chapter.

(3)(A) The board may implement requirements for home inspectors to complete continuing education annually as a condition to registration renewal.

(B) The continuing education shall be conducted in accordance with rules and guidelines which the board may develop and implement in accordance with the Arkansas Administrative Procedure Act.

(C) However, the education subjects to be required the following year shall be announced not later than April 1 of the year prior to the year in which they are required, unless the board declares a special need, in which case, subjects may be changed or added by the board to meet those special needs.

(D) No topic shall be required if training in that subject is not available in Arkansas or a bordering state, at a reasonable cost to the inspector.

(E) The board shall insure review of the curriculum of continuing education providers, grant or deny approval to those providers as appropriate, and make a list of approved providers available to all registered inspectors.

(F) All costs or fees for continuing education will be borne by the individual inspectors.

(4) The board may deny, suspend, or revoke the approval of any continuing education provider under circumstances which it deems to warrant that action.

(5) The board may decide the subject content and standards which will be acceptable to meet the education standards with regard to home inspection courses as required by law.

(6) The board shall develop procedures for processing and resolving of complaints against home inspectors practicing in this state, regarding registration or failure to abide by requirements of this chapter, including, but not limited to, non-compliance with the standards of practice and code of conduct.

(7) The board may enter into reciprocal agreements with other states, territories, districts, or possessions of the United States with respect to registration or licensing requirements acceptable between Arkansas and the other entities.

(8) The board shall maintain working files as it deems necessary.

(9)(A) The board members may be reimbursed for travel expenses to and from board meetings in accordance with applicable state procedures.

(B) In addition, board members may be reimbursed for the cost of telephone calls, office supplies, and postage needed to carry out the business of the board.

(C) Requests for reimbursement will be submitted to the board chairman who will review them as to whether they are reasonable and proper and forward them to the sponsoring agency for payment.

SECTION 8. Arkansas Code Title 17, Chapter 52, Subchapter 1, is amended to add an additional section to read as follows:

17-52-108. Responsibilities of the sponsoring agency.

(a) The sponsoring agency shall be the custodian of permanent, official, home inspector registration files and shall maintain permanent records of all home inspector registration applications received since enactment of the Arkansas Home Inspector Registration Act. The files shall be maintained in accordance with established procedures for all holders of official records.

(b)(1) The sponsoring agency shall establish and maintain a functional internet site devoted to home inspection registration and related subjects. The purpose of that site shall be to make information available to the public about the status of an inspector's registration and how an inspector may be contacted. The format and content of the internet site and these records and files shall be developed in coordination with and approved by the board before being implemented.

(2) The following shall be included on that site:

(A) Current, electronic records, showing the current status of all home inspector registration applications since the passage of this chapter;

(B) A searchable, indexed copy of the complete, current, Arkansas Home Inspector Registration Act;

(C) Downloadable forms as the board may deem appropriate to administer this chapter;

(c) The sponsoring agency shall procure and provide stationary and blank paper forms as requested by the board.

(d)(1) The sponsoring agency will receive applications for initial registration and renewal of registration and provide copies to the board for the board's use. Internal, temporary file designations and numbers may be assigned by the sponsoring agency, pending action by the board.

(2) However, an inspector registration number shall not be assigned until the application is approved by the board.

(e) The sponsoring agency shall prepare and mail documents to the board, inspectors, applicants, and others as reasonably required to carry out the functions and responsibilities set forth in this chapter.

(f) The sponsoring agency shall, after coordinating with the board, budget for and fund the operation of the board.

(g) The sponsoring agency shall perform other functions as may be agreed upon in a memorandum of agreement between the board and the sponsoring agency.

SECTION 9. Arkansas Code 17-52-202 is amended to read as follows:

~~17-52-202. Failure to register~~ Penalties - Limits of Liability - Standard of care.

~~(a) Any person who undertakes or attempts to undertake the business of home inspection without first having been registered as required by this chapter, or who knowingly presents or files false information with the Secretary of State for the purpose of registering as a home inspector, shall be deemed guilty of a Class C misdemeanor.~~

~~(b) A person who has failed to register pursuant to this chapter shall not bring an action to enforce the provisions of any contract to provide home~~

~~inspections which he or she entered into a violation of this chapter.~~

~~(c) All home inspections conducted by persons registered under this chapter shall be conducted in adherence to the Standards of Practice and Code of Ethics of the American Society of Home Inspectors, the Arkansas Association of Real Estate Inspectors, or equivalent professional home inspection association. Copies of these standards shall be on deposit with the Secretary of State.~~

~~(d) It is the duty of all home inspectors doing business in the State of Arkansas to conduct home inspections with the degree of care that a reasonably prudent home inspector would exercise.~~

~~(e) Nothing in this chapter shall be construed to allow home inspectors who are not registered as professional architects or engineers to perform any analysis of the systems, components, or structural integrity of a dwelling that would constitute the practice of civil, electrical, or mechanical engineering.~~

(a) All home inspections conducted by persons registered under this chapter shall include a written report and be conducted in adherence to the standards of practice and code of ethics of the American Society of Home Inspectors or the Arkansas Association of Real Estate Inspectors.

(b) Copies of these standards shall be on deposit with the sponsoring agency. Inspection reports shall include a statement which specifies which standards are being used as the basis for the inspection. Inspections and reports may be more comprehensive and in-depth than specified in the standards above but may not be less so.

(c) It is the duty of all home inspectors doing business in the State of Arkansas to conduct home inspections with the degree of care that a reasonably prudent home inspector would exercise.

(d)(1) The board may, by a majority vote and upon determination made after a public hearing, impose:

(A) A civil penalty of up to two thousand dollars (\$2,000) for each violation on whoever, being not currently registered by the board, shall present, call or represent himself as authorized to provide a home inspection for compensation or whoever, being registered, impersonates another home inspector, or violates any rule or regulation made by the board;

(B) A civil penalty of up to five thousand dollars (\$5,000) on whoever, knowingly submits false information incident to obtaining registration.

(2) In addition to civil penalties in subdivision (d)(1) of this section, the board may:

(A) Impose other administrative and financial sanctions which the board may include as part of its rules made and adopted by majority vote of the board;

(B) Order an inspector to practice under appropriate supervision for a period of time determined by the board as a condition of reinstatement of registration; and

(C) Order financial restitution where appropriate

(3) Any fines and civil penalties imposed by the board may be enforced in the courts of the state.

(e) A person who was not currently registered pursuant to this chapter at the time an inspection was conducted shall not bring an action to demand payment for or enforce the provisions of any contract to provide home inspections which he or she entered into in violation of this chapter.

(f) Nothing in this chapter shall be construed to allow home inspectors who are not registered as professional architects or engineers to perform any analysis of the systems, components, or structural integrity of a dwelling that would constitute the practice of architecture or civil, architectural, electrical, or mechanical engineering.

(g) Any civil or criminal action arising from a home inspection shall be commenced within two (2) years after the date of a completed, written report of that inspection.

SECTION 10. Arkansas Code 17-52-203 is amended to read as follows:  
17-52-203. Unfair practices.

(a) It is an unfair business practice for a home inspector, a company that employs the inspector, or a company that is controlled by a company that also has a financial interest in a company employing a home inspector, to do any of the following:

(1) To perform or offer to perform, for an additional fee, any repairs to a structure on which the inspector, or the inspector's company, has prepared a home inspection report in the past twelve (12) months.

(2) Inspect for a fee any property in which the inspector, or the inspector's company, has any financial interest or any interest in the transfer of the property.

(3) To offer or deliver any compensation, inducement, or reward to the owner of the inspected property, the broker, or agent, for the referral of any business to the inspector or the inspection company.

(4) Accept an engagement to make an inspection or to prepare a report in which the employment itself or the fee payable for the inspection is contingent upon the conclusions in the report, preestablished findings or the close of escrow.

(b) Any information or lists regarding persons represented to be home inspectors which are provided to or made available to home owners or potential home buyers must include explicit advice that a complete, current list of all registered inspectors is available on the internet and must include the universal resource locator (URL) of the internet site maintained by the sponsoring agency at which the list is available."

The Amendment was read \_\_\_\_\_  
By: Representative Hunt  
EN/VJF  
VVF104 \_\_\_\_\_  
Chief Clerk